

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
MSU Northern – Applied Tech Center
Havre, MT

OCTOBER 25, 2007

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chair; Vic Workman; Dan Vermillion; Willie Doll.

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director, and FWP Staff.

Guests: See October 25, 2007 Commission file folder for those who signed in.

A Work Session followed the meeting to discuss elk management, the pros and cons of biennial quota setting and fixed season dates, and water purchase and gift procedures.

Topics of Discussion:

1. **Call to Order - Pledge of Allegiance**
2. **Approval of Commission Meeting Minutes of September 27, 2007**
3. **Approval of Commission Expenses through September, 2007**
4. **2008 Commission Calendar – Tentative**
5. **Montana Neighbor Award Presentation to Warren and Betty Don Ross**
6. **2008 Non-Resident Combination License Rule - Final**
7. **2008-2011 Fishing Regulations - Final**
8. **Ruby River FAS Lease Extensions – Final**
9. **DNRC/Little Muddy Creek FAS Lease near Cascade – Final**
10. **Lazyman Creek Instream Flow Water Right Lease Agreement – Final**
11. **Weymiller FAS Donation on the Clarks Fork of the Yellowstone River – Final**
12. **Native Fish Habitat Conservation Plan Land Acquisitions – Informational**
13. **Smith River Conservation Easement Donation from Washington Corp – Final**
14. **Lower Yellowstone River FAS Acquisition - Endorsement**
15. **Donated Cons. Easement on North Shore of the Missouri River–Endorsement**
16. **Elk Plan Adjustment (Bitterroot Working Group) – Final**
17. **Lost Creek Road Easement near Dillon – Final**
18. **Nevada Lake WMA Forest Legacy Conservation Proposal – Informational**
19. **Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. **Opening - Pledge of Allegiance.** Chairman Doherty called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.

2. **Approval of September 27, 2007 Commission Meeting Minutes.**

Action: Workman moved and the motion was seconded to approve the September 27, 2007 minutes. Motion carried.

3. Approval of September, 2007 Commission Expenses.

Action: Colton moved and Workman seconded the motion to approve the September expenses as presented. Motion carried.

4. 2008 Commission Calendar – Tentative. A draft schedule of proposed meeting dates was provided. Director Hagener stated that it is customary to hold three to four meeting in the regions each year. Since meetings were held in Regions 3, 5, and 6 in 2007, it would be appropriate to meet in Regions 1, 2, 4, and 7 in 2008. He also suggested adhering as closely as possible to the dates once they are set.

It was recommended to make September 25 the date for the September meeting, and Workman recommended holding all meetings in Helena rather than circulating throughout the state as it is costly to the Department, and regional meetings generate very little public participation. Colton agreed that there is very little attendance for the meetings, however perhaps continued Commission presence will generate more public participation. Suggested locations by the Parks Division included Ulm Pishkun and Lone Pine State Parks. Locations will be decided at a later date.

Action: It was moved and seconded to approve the tentative 2008 commission meeting dates with the amendment to set the September date to September 25. Motion carried.

5. Montana Neighbor Award Presentation to Warren and Betty Don Ross. Director Hagener explained that Warren and Betty Don Ross were this year's recipients of the Montana Neighbor Award in recognition of their love for their fellow man, for the land and animals, and for their community. Prior to Betty Don Ross' passing earlier this year, she was made aware of the award and was very proud of the honor. The Ross' are great neighbors who allow fishing and hunting on their land, judiciously manage the habitat on their ranch, fight to control weeds, and belong to several organizations.

The award was created to give recognition to landowners who go the extra mile to enhance Montana's sense of community. The Montana Neighbor Group, a coalition comprised of The Nature Conservancy, Artemis Common Ground, the Montana Council of Trout Unlimited, and Montana Fish, Wildlife & Parks, received twenty-eight nominations. Criteria that nominations are ranked on include collaboration with neighbors and conservation interests, land access, land conservation ethics and stewardship, and community participation relative to landowner issues.

Mr. Ross graciously accepted the award and delivered a short speech.

6. 2008 Non-Resident Combination License Rule - Final. **Quentin Kujala, FWP Wildlife Division Management Bureau Chief,** said there were no changes to the tentatives. The Variable Priced Licensing Committee recommended a quota of 5,000 B-10 Outfitter Sponsored Big Game Combination licenses at \$1,500 per license, a quota of 2,000 B-11 Outfitter Sponsored Deer Combination licenses at \$1,100 per license, and a quota of 5,000 B-10 Outfitter Sponsored Elk Combination licenses at \$1,400 per license. The committee also recommended sending outfitter-sponsored licenses directly to the outfitters rather than to the clients, and eliminating readdressing the reissuance of Deer A licenses each May.

Action: Colton moved and Workman seconded the motion to adopt the 2008 annual rule for the sale of non-resident combination licenses as recommended by the Department. Motion carried.

7. 2008-2011 Fishing Regulations – Final. Chris Hunter, FWP Fisheries Division Administrator, stated that in response to public comment, six changes are recommended to the tentatives.

- * The Thompson River regulation proposal to increase harvest of brown trout has been withdrawn due to public opposition and need for more data. People are happy with what is already in place
- * The Big Hole regulation proposals received much input, and the one least liked was the elimination of artificial lure sections. These are being withdrawn from the proposal.
- * The hoop net rules received feedback from the public, so FWP made changes to allow more species of fish to be kept.
- * The Madison River proposal to allow year-round fishing in the Lyons Bridge to McAtee Bridge section is being withdrawn due to opposition. This is justified by the fact that the sole impetus for the original proposal was to simplify regulations, and was not based on any biological concerns. There is heavy pressure on the river and the public wants to see it remain closed to fishing.
- * The Clark Canyon proposal was originally made by FWP, but was amended by the Commission on August 2. Public comment was slim and those in favor and those in opposition were evenly divided. FWP proposes to withdraw the amended changes and restore the original proposal.
- * The new regulation to only allow catch and release cutthroat trout fishing in Greenhorn Creek of the Ruby River is based on new genetic information.

Commission discussion ensued regarding the Clark Canyon regulations and the Flathead River lake trout and bull trout regulations.

Chairman Doherty asked for public comment on the changes to the tentatives.

John Winnie, Flathead Valley Trout Unlimited, said there are two special trout populations in the Flathead Lake system. His organization recommends removing the slot limit on larger lake trout and allowing harvest of northern pike in the upper Flathead River throughout the winter/spring season to reduce predation on native trout.

Jim Satterfield, FWP Region 1 Supervisor, stated that those types of regulations can be addressed between the four-year major regulation setting cycle, and would need to be presented for public comment. He stated that Flathead Lake is co-managed with the CSKT. Satterfield said that for every four pike caught, one bull trout is caught.

Action: Vermillion moved and Colton seconded the motion to change the name of Darlington Ditch aka Darlington Spring Creek to Darlington Spring Creek aka Darlington Ditch. Motion carried.

Action: Colton moved and Vermillion seconded the motion to approve the 2008-2011 fishing regulations as recommended by the Department. Motion carried.

8. Ruby River FAS Lease Extensions – Final. Chris Hunter, FWP Fisheries Division Administrator, explained that the leases on the three fishing access sites on the Ruby River expire December 31, 2007. The landowners are willing to extend the leases, however they wish to increase their base price by three percent, and then escalate the price by three percent each year thereafter. The Department has received support for these leases over the ten years the leases have been in existence.

FWP will continue to explore opportunities to purchase river access by fee title, however river front property along the Ruby is very expensive.

Action: Vermillion moved and Workman seconded the motion to authorize the Department to extend the Ruby River Fishing Access Site leases, beginning at a rate of \$11,700 per year for each lease, and increasing by 3% per year per lease during the two 5-year lease terms. Motion carried.

9. DNRC/Little Muddy Creek FAS Lease near Cascade – Final. Chris Hunter, FWP Fisheries Division Administrator, explained that this 22-acre access site is located on the Missouri River near Cascade. This site is located in the middle of an 18-mile stretch of the river. Twenty-five comments were received in response to FWP's draft Environmental Assessment – most opposed the proposal because they were concerned about noise, parties etc. DNRC also released an Environmental Assessment, and they received twenty-one comments in support. FWP feels this is a good acquisition. The Department cannot purchase DNRC land, but can enter into a lease.

Action: Doherty moved and Colton seconded the motion to approve that Montana Fish, Wildlife & Parks enter into a lease with DNRC for the Little Muddy Creek site for use as a Fishing Access Site. Motion carried.

10. Lazyman Creek Instream Flow Water Right Lease Agreement – Final. Chris Hunter, FWP Fisheries Division Administrator, explained that Lazyman Creek is a small tributary to the Ruby River approximately forty miles south of Sheridan. Lazyman Creek is dewatered late in the summer and into the fall due to a single irrigation diversion. This water lease would provide at least one cubic foot per second of stream flow in lower Lazyman Creek below the irrigation diversion.

Lazyman Creek has been identified as a stream suitable to incubation and rearing of arctic grayling. Once the channel and stream flow is restored, adult grayling reared in Lazyman Creek should return to the stream to naturally reproduce.

The Lazyman Creek project is sponsored by the Ruby Watershed Council. The Council has already secured funds for the project from the Future Fisheries Improvement Program and the Natural Resource and Conservation Service. The stream restoration and improvement to the irrigation system constitute the payment for the water lease. No additional payment to the lessors would be required.

Action: Vermillion moved and Workman seconded the motion to approve the Lazyman Creek Water Right Lease Agreement with Gary L. Giem and the Boken Family Trust, and for FWP to make application to DNRC to temporarily change a portion of their irrigation water right to instream flow for a period of 20-years in accordance with the Lease Agreement. Motion carried.

11. Weymiller FAS Donation on the Clarks Fork of the Yellowstone River – Final. Chris Hunter, FWP Fisheries Division Administrator, stated that this proposed fishing access site is located on the Clarks Fork of the Yellowstone River, about 45 miles south of Laurel. There are no other access sites in that area. Calvin Weymiller, a long-time Montana resident who died in 2005, left a will directing that five acres be conveyed as a donation to FWP as a fishing access for the benefit of the general public. The Environmental Assessment generated no comments of opposition.

Action: Colton moved and Doll seconded the motion to approve acceptance of the donation of five acres on the Clark Forks of the Yellowstone River from the Calvin Weymiller estate to establish the Weymiller Fishing Access Site. Motion carried.

12. Native Fish Habitat Conservation Plan Land Acquisitions – Informational. Chris Hunter, FWP Fisheries Division Administrator, stated that this is a continuation of the Plum Creek Timber Company and USFWS Habitat Conservation Plan that was designed to protect bull trout habitat. The USFWS has a program to provide funding for protection of habitat, and FWP, in conjunction with the Nature Conservancy, successfully competed for some of those funds in 2006 and 2007 to acquire in fee or via conservation easements, over 9,000 acres in the Blackfoot River drainage.

FWP recently submitted a grant application for \$6,515,319 in HCP funds, to be matched with over five million dollars in private funding, to acquire conservation easements on two parcels amounting to 24,940 acres. The Chamberlain Mountain parcel is just over 18,000 acres and the SE Lincoln property consists of 6,919 acres. If the application is approved, FWP will seek endorsement to begin negotiations.

13. Smith River Conservation Easement Donation from Washington Corp – Final. Joe Maurier, FWP Parks Division Administrator, briefed the Commission on the 240-acre Smith River conservation / recreation easement donation to FWP by the Washington Corporation. The parcel, in the heart of the Smith River Canyon, includes nearly a mile of riverbank on the Smith River. Under the terms of the conservation easement, the owner will forego commercial use and development of the property, however the easement does allow for a private residence to be built on the property. Two comments were received in support of the easement following publication of the Environmental Assessment.

Action: Doherty moved and Workman seconded the motion to approve acceptance of the donation of the 240-acre conservation easement at the mouth of Deep Creek on the Smith River. Motion carried.

14. Lower Yellowstone River FAS Acquisition – Endorsement. Joe Maurier, FWP Parks Division Administrator, explained that this proposal is to purchase 275 acres of land along the Yellowstone River near Savage for use as a fishing access site. The nearest access sites are twenty miles upstream and twenty miles downstream. This parcel is next to Elk Island Wildlife Management Area. If the Commission endorses this proposal, funding will be discussed and public participation will be invited. This site consists of valuable agricultural land and riparian that would greatly benefit wildlife, pheasants and turkeys, and would provide fishing and boating access to the Yellowstone.

Action: Colton moved and Vermillion seconded the motion to authorize the Department to initiate tentative discussions with the landowners for the possible purchase of all or some of this lower Yellowstone parcel. Motion carried.

15. Donated Conservation Easement on the North Shore of the Missouri River–Endorsement. Joe Maurier, FWP Parks Division Administrator, and Gary Bertellotti, FWP Region 4 Supervisor, explained that FWP proposes to hold and administer a conservation easement on a 5-acre tract of private property on the north shore of the Missouri River across the river from the Lewis & Clark Interpretive Center and Giant Springs State Park. The property was acquired in fee title by the Lewis & Clark Interpretive Center Foundation in 2006. FWP would accept the easement from the

Foundation, at no cost to the Department, using funds allocated to the City of Great Falls through the Community Transportation Enhancement Program. Eventually this parcel will come under FWP's control and management. Contingent on Commission endorsement, FWP will prepare an Environmental Assessment for public review.

Action: Doherty moved and Colton seconded the motion to authorize Montana Fish, Wildlife and Parks to initiate action to accept, hold, and administer the Conservation Easement on five acres of the North Shore of the Missouri River owned in fee title by Lewis & Clark Interpretive Center Foundation. Motion carried.

16. Elk Plan Adjustment (Bitterroot Working Group) – Final. Quentin Kujala, FWP Wildlife Division Management Bureau Chief, stated that there were no changes to the tentatives. The working group had proposed the following changes:

Increase Elk Plan objective in West Fork EMU (HD 250) from 1400 to 2000.

Increase Elk Plan objective in Sapphire EMU from 3400 to 3800. The HD 270 objective would increase from 2600 to 3000.

Decrease Elk Plan objective in Rock Creek EMU from 2500 to 2370. The combined objectives of HDs 204 and 261 would decrease from 1450 to 1320.

Action: Colton moved and Vermillion seconded the motion to adopt as Final the West Fork, Sapphire and Rock Creek EMU Elk Plan objective changes as presented by the Department. Motion carried.

17. Lost Creek Road Easement near Dillon – Final. Hugh Zackheim, FWP Field Services Lands Section Supervisor, explained that FWP proposes to acquire a permanent road easement across a mile of private land to access 6,000 acres of public land in the East Pioneer Mountains north of Dillon. The project is a cooperative effort between the Smith Bar S Ranch, the Bureau of Land Management, the Forest Service, and FWP. The cost of the road easement, \$30,000, will be provided by a grant from the Montana Fish and Wildlife Conservation Trust. This road easement would replace nearly two miles of BLM and private road along Lost Creek, and will improve riparian habitat and travel conditions. The Environmental Assessment generated four supportive comments.

Action: Vermillion moved and Workman seconded the motion to authorize FWP to acquire a permanent road easement from the Smith Bar S Ranch to provide for public access to the upper Lost Creek drainage. Motion carried.

18. Nevada Lake WMA Forest Legacy Conservation Proposal – Informational. Ken McDonald, FWP Wildlife Division Administrator, explained that this is a part of the Blackfoot Challenge, a community project between FWP, the Nature Conservancy, and Melanie Mannix who owns the land. The proposal was brought before the Commission in March of 2006, and is still on-hold. The Nature Conservancy bought 2,140 acres from Plum Creek Timber to prevent the land from being subdivided, and FWP secured forest legacy money to purchase the conservation easement. The landowners will donate twenty-five percent of the appraised value to match the forest legacy funding. Negotiations are still underway with the hope they will be finalized by the end of the year.

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Director Hagener stated that he had received a letter from the Mayor in Helena regarding the urban deer situation. Following the Commission decision in September to take no action, there has been a great deal of public interest expressed. Hagener asked if it the Commission would like to revisit the issue in November, or if the matter should be considered done. If it is to be revisited, he asked that the Commissioners submit their questions to him so he can get answers to those questions.

*Action: Workman moved to take no action. Motion failed due to lack of a second.*

Colton said it must be readdressed. He said it was never established if it was a health, welfare & safety issue. He added that it must be made clear that if the Commission approves Helena's plan that it will go no further. If the Commission approves the plan, he will stipulate that biologists must get Commission approval prior to any meetings with the city.

Doherty expressed concerns about sharpshooters in downtown Helena, about spending sportsmen's dollars, and about policy issues. Legislators will make an issue of this – he wishes they would show as much passion on subdivisions and impact fees.

Workman said the comments showed that 70 percent of the people do not want to see this plan go forward. A severe winter will take care of the problem.

Doll said there are a lot of issues to be addressed, and it would not hurt to talk and listen. The Commission retains the option not to agree to anything. He asked if problem deer can be handled by the Sheriff's Office or if that is strictly FWP's bailiwick. Becky Jakes-Dockter, FWP Legal Counsel replied that if the problem is a health and safety issue, both FWP and the Sheriff's Office can handle it. Doherty said the deer that are posing safety threats are already being dealt with.

Doll asked if a plan is agreed upon, will it set statewide standards or will the Commission have to go through this process every time. Can a basic plan be developed that will accommodate every town? Hagener stated that each city will have a different plan with individual issues to address. Colton said other cities will want in on this so a plan needs to be developed.

Hagener said this issue could be revisited in November and the Commission would not necessarily need to take any action. Workman reiterated that if 70 percent of the people are against this, then the Commission should not do it.

Kurt Alt, FWP Region 3 Wildlife Manager, said there are things in the agreement that the city absolutely must commit to if the plan is approved.

The topic will be further discussed at the November meeting.

#### **19. Open Microphone – Public Opportunity to Address Additional FWP Issues.**

Dave Kozub, Lewistown, said to leave archery elk in Region 6 as it is until there is a biological issue that requires a change.

*Action: It was moved and seconded to adjourn the meeting. Motion carried.*

Meeting adjourned at 11:40 a.m.

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**Steve Doherty, Chairman**

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**M. Jeff Hagener, Director**